

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

PATSY ADAMS,

Plaintiff,

v.

CIVIL ACTION NO. 1:21-00304

UNITED STATES DEPARTMENT  
OF JUSTICE, BUREAU OF PRISONS,

Defendant.

**MEMORANDUM OPINION AND ORDER**

Pending before the court are defendant's motions to:

(1) substitute the United States as the proper party; and (2) dismiss plaintiff's claims for prejudgment interest and attorney's fees. See ECF Nos. 7 and 9. Plaintiff did not file a response to either motion.

Plaintiff filed her suit pursuant to the Federal Tort Claims Act ("FTCA"). The only proper defendant in an FTCA action is the United States of America. See Iodice v. United States, 289 F.3d 270, 273 n.1 (4th Cir. 2002) (acknowledging that, as to FTCA claims against the U.S. Department of Veterans Affairs, "the United States is the only proper defendant"). Therefore, the motion to substitute is **GRANTED**. See, e.g., Billups v. United States Postal Service, No. 5:19-CV-188-BO, 2019 WL 3822510, at \* (E.D.N.C. Aug. 14, 2019); Cox v. U.S. Marshals Service Headquarters, Civil Action Case No. CCB-11-2659, 2011 WL 6000557, at \*1 n.1 (D. Md. Nov. 29, 2011) (substituting United States as

defendant in lieu of United States Marshals Service because "[t]he United States is the only proper party defendant in actions brought under the Federal Tort Claims Act").

As for defendant's other motion, "Congress has expressly forbade an award of pre-judgment interest for suits brought pursuant to the FTCA." Goodman v. United States, CIVIL ACTION No. 3:16-5953, 2017 WL 11249430, at \*1 (S.D.W. Va. Apr. 11, 2017) (Chambers, J.). With respect to plaintiff's request for attorney's fees, "the United States has not waived its immunity to an award of attorney's fees related to a tort action brought against it. . . . Put differently, where Congress has not expressly waived immunity, the sovereign immunity of the United States remains intact, and Congress has not waived sovereign immunity for attorney's fees and expenses under the FTCA."). Id. Based upon the foregoing, defendant's motion to dismiss plaintiff's claims for prejudgment interest and attorney's fees is likewise **GRANTED**.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record.

**IT IS SO ORDERED** this 22nd day of July, 2022.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge